

321 CMR: DIVISION OF FISHERIES AND WILDLIFE.

321 CMR 2.00: MISCELLANEOUS REGULATIONS PERTAINING TO FISHERIES AND WILDLIFE.

321 CMR 2.15: Importation, liberation, and transportation of fish, amphibians, reptiles, birds, and mammals.

(1) Definitions. For the purposes of 321 CMR 2.15 and unless the context requires otherwise, the following words or phrases shall have the following meanings:

Bird means any bird, wild by nature, not otherwise exempted in the list found at 321 CMR 9.01 and shall additionally include the nest and eggs thereof.

Director means the director of the Division of Fisheries and Wildlife or his agent.

Division means the Massachusetts Division of Fisheries and Wildlife, ~~400 Cambridge Street, Leverett Saltonstall Building,~~ **251 Causeway Street**, Boston, MA **02114** 02202 (tel. ~~617-727-3151~~).

Environmental Police Officer means the director of the Division of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the ~~Division~~ **Office** of Law Enforcement as may be appointed pursuant to M.G.L. c. **21A, 10A.** ~~21, § 6.~~

Fish means any freshwater fish not otherwise exempted in the list found at 321 CMR 9.01 and shall additionally include the spawn and viable eggs thereof.

Permit means an importation permit, or a liberation permit, issued pursuant to M.G.L. c. 131, §§ 19 and 19A, and 321 CMR 2.15.

Person means an individual, corporation, partnership, trust, association or other private entity or any officer, agent, department or instrumentality of the federal government or any state or its political subdivisions, including but not limited to any agency, department, board, commission or authority thereof.

Wildlife means non-domesticated amphibians, reptiles, birds, and mammals.

(2) Importation. No person shall import any live fish, amphibian, reptile, bird, or mammal, or the dead bodies or carcasses or parts thereof, except in accordance with 321 CMR 2.15. Except as otherwise provided in 321 CMR

2.15, no fish or wildlife shall be imported to Massachusetts prior to the issuance of an importation permit.

(3) Exceptions to Importation Requirement. Notwithstanding the provisions of 321 CMR 2.15(2):

(a) a person may import and transport within Massachusetts, but may not liberate, those live fish, fish spawn, amphibians, reptiles, birds, and mammals, and parts thereof, which are exempt and may be kept without a permit pursuant to 321 CMR 9.01;

(b) a fur dealer licensed in accordance with M.G.L. c. 131, § 28 may import the skins or pelts of fur-bearing animals, when in compliance with tagging, marking, record-keeping, and other requirements of M.G.L. c. 131, § 28;

(c) a hunter or trapper licensed under the laws of another state may import the skins or pelts of fur-bearing animals for sale or exchange at a Massachusetts fur auction or to a licensed Massachusetts dealer, provided that such skins or pelts shall be tagged in accordance with the provisions of Chapter 131 and 321 CMR, when required;

(d) a Class 6 dealer may import or transport animal parts as provided for in 321 CMR 2.15(8), **except as provided in 321 CMR 2.15(10).**

(4) Liberation. No person shall liberate or cause or allow to be liberated any live fish, amphibian, reptile, bird, or mammal, except in accordance with 321 CMR 2.15. The director may require, as a condition of a liberation permit, that he or his agent be provided an opportunity to be present at any liberation of fish and wildlife. Only the following fish species may be considered for liberation: brook trout, brown bullhead, brown trout, chain pickerel, golden shiner, largemouth bass, pumpkinseed, rainbow trout, white sucker, yellow perch. Only the following wildlife species may be considered for liberation: ringnecked pheasant, bobwhite quail, snowshoe hare. Applications for liberation permits may be denied if the Director determines that the fish or wildlife species for the proposed liberation would not be compatible with the fish or wildlife species or management practices on the lands or waters indicated on the permit application. Except as otherwise provided in 321 CMR 2.15, no fish or wildlife shall be liberated within Massachusetts prior to the issuance of a liberation permit.

(5) Exceptions to Liberation Requirement. Notwithstanding the provisions of 321 CMR 2.15(4):

(a) a wildlife rehabilitator licensed pursuant to 321 CMR 2.13 may transport within Massachusetts and liberate rehabilitated wildlife in accordance with the provisions and restrictions of 321 CMR 2.13(22)(a);

(b) a problem animal control agent licensed pursuant to 321 CMR 2.14(3) or (18) may liberate problem animals at the site of capture in

accordance with 321 CMR 2.14(23)(a), or may transport within Massachusetts such animals to a licensed wildlife rehabilitator;

(c) a person possessing a current and valid Class 11 raptor salvage permit in accordance with 321 CMR 3.04(1)(e), may transport within Massachusetts and liberate rehabilitated raptors;

(d) a person holding a commercial shooting preserve permit pursuant to 321 CMR 2.05 may liberate on such preserve those game birds specified in 321 CMR 2.05(14);

(e) a person holding a Class 2 public stocking license pursuant to 321 CMR 4.09, or a Class 5 special propagator's license pursuant to 321 CMR 2.12, or the equivalent Letter Permit, may liberate fish, birds, or mammals, as the case may be, when so authorized in such license;

(f) a person holding a Class 8 quail license, or the equivalent dog training license, or a Class 4 license issued for the sole purpose of possessing pheasant and quail for the purpose of training dogs, may liberate and recapture such quail or pheasant for dog training purposes only pursuant to 321 CMR 2.12;

(g) a person may liberate and recapture homing pigeons.

(6) Transportation.

(a) The issuance of an importation permit or a liberation permit, or any permit or exception pursuant to 321 CMR 2.15(3) and (5), shall convey to the permittee the authority to transport live fish, amphibians, reptiles, birds, mammals or the dead bodies or carcasses or parts thereof within Massachusetts from the point of origin to the permittee's place of business, domicile, or other destination, as the case may be, provided that the director may establish conditions to any importation or liberation permit relative to the standards, security, housing or caging requirements, or other aspects of fish and wildlife in transit within Massachusetts and such conditions shall be construed as requirements for the permit.

(b) The importation permit or liberation permit or a copy thereof shall accompany the fish or wildlife being imported or liberated at all times while being transported within Massachusetts between the point of entry or point of origin, as the case may be, and the delivery or liberation point.

(c) Live reptiles and amphibians lawfully taken and possessed pursuant to 321 CMR 3.05 may be transported within Massachusetts without a transportation permit.

(d) Live fish, except for bait fish lawfully taken pursuant to 321 CMR 4.01, shall not be removed or transported from the water body where taken.

(e) Any person lawfully possessing an amphibian, reptile, bird, or mammal pursuant to any provision of M.G.L. c.131, or any rule or regulation promulgated under authority thereof, may transport said amphibian, reptile, bird or mammal within Massachusetts for the purpose of euthanasia.

(f) Except as otherwise provided in 321 CMR 2.15, live fish, amphibians, reptiles, birds, or mammals shall not be transported within Massachusetts without a permit.

(7) Personal Use Exemption. **Except as provided in 321 CMR 2.15(10),** nothing in 321 CMR 2.15 shall be held to prohibit a person from bringing into Massachusetts and transporting therein for personal use but not for sale, the dead bodies or carcasses or parts thereof of fish, amphibians, reptiles, birds, or mammals which were lawfully taken or killed in another state, province, or country, unless prohibited by federal statute or regulation so to do, if before any such fish, amphibians, reptiles, birds or mammals are so imported they are tagged or marked in accordance with the laws of such other state, province, or country and with the federal laws relating to interstate commerce, and if no more such fish, amphibians, reptiles, birds or mammals are imported at one time than is permitted by the laws of such other state, province, or country to be exported therefrom; but the burden of proof shall be on such person to prove that such importation and possession was lawful in its origin. Additionally, any person who holds a Massachusetts sporting, hunting, fishing, or trapping license issued to him may transport and carry from or within Massachusetts the dead bodies or carcasses of such fish, amphibians, reptiles, birds or mammals, or parts thereof, as shall have been lawfully taken within Massachusetts, but no person shall transport or cause to be transported into or out of Massachusetts any fish, amphibians, reptiles, birds or mammals which have been taken or killed or are possessed contrary to the laws of any state, or of the United States, or of any foreign nation.

(8) Dealer's Exemption. **Except as provided in 321 CMR 2.15(10),** any Class 6 dealer licensed pursuant to M.G.L. c. 131, § 23 and 321 CMR 2.12 or 4.09 may purchase and import the dead bodies or carcasses of fish, amphibians, reptiles, birds, or mammals, or parts thereof, lawfully taken or lawfully propagated without Massachusetts, provided that the export and sale is lawful in the state, province, or country in which said fish, amphibians, reptiles, birds, or mammals are taken or propagated or from which exported, as the case may be, and provided further that all shipments shall bear the name of the consignee, the name of the consignor and, if enclosed, a statement of the contents contained therein, the tag, license or permit number as the case may be, or to the carton, package, box, or crate in which such are shipped, transported or delivered to any point within Massachusetts, is attached whatever mark of identification is required by the state, province, or country from which such carcasses or parts thereof are so shipped, transported or delivered; and provided further, that such sale, transportation or export is not contrary to federal statute or regulation.

(9) Permit. The director may issue an importation permit, or a liberation permit, as the case may be, in accordance with provisions of M.G.L. c. 131, §§

19 and 19A, and 321 CMR 2.15. Except as provided in 321 CMR 2.01, 2.02 or 2.05, importation permits or liberation permits shall not be issued to persons who do not have a valid license issued pursuant to 321 CMR 2.12 or 321 CMR 4.09.

(10) Determination.

(a) Prior to issuing a permit, the director shall determine that such importation or liberation, as the case may be, is not detrimental to the inland fisheries or the wildlife resources of Massachusetts, or the habitats thereof.

(b) The Director has determined that chronic wasting disease (CWD), a contagious, transmissible neurological disease which is fatal to deer and elk, poses a clear and imminent threat to the wildlife resources of Massachusetts. In order to prevent the spread of CWD, no person shall import into Massachusetts any live deer or other member of the family Cervidae, including, but not restricted to, white-tailed deer, mule deer, red deer, moose or elk, or any parts thereof, except: meat which has been cut and wrapped (commercially or privately), quarters or other portions of meat with no part of the spinal column or head attached, deboned meat, hides with no head attached, cleaned skull caps (no muscle or brain tissue attached) with attached antlers, antlers with no muscle or brain tissue attached, fixed taxidermy mounts, or upper canine teeth (also known as “buglers”, “whistlers”, or “ivories”). The importation of brains, spinal columns, or any meat or parts containing brain or spinal column tissue is expressly prohibited. Live animals or parts thereof imported in violation of 321 CMR 2.15(10) may be seized and disposed of as provided for in 321 CMR 2.15(22). The prohibitions in 321 CMR 2.15(10)(b) shall pertain to importations from any state or any Canadian province within which CWD has been identified in either wild or captive deer or other cervids.

(11) Tests for diseases and parasites. The immediate source of fish, amphibians, reptiles, birds or mammals to be imported or liberated shall be certified by a person recognized by the director as qualified to diagnose fish or wildlife diseases, as the case may be, as free of infectious diseases and parasites, if in the director's judgment such certification is necessary. Such tests and certifications shall include, but not be limited to, those specified in M.G.L. c. 131, §§ 19 and 19A. The director may establish conditions to any permit relative to the standards or tests for particular fish and wildlife diseases and parasites and such conditions shall be construed as requirements for such permit.

(12) Application. A person seeking a permit provided for in 321 CMR 2.15 shall complete a written application on forms supplied by the director. Completed applications shall include a self-addressed stamped envelope and be addressed to the Permit Section of the Division. Applications for a permit to import fish shall be received not less than 15 nor more than 30 days prior to

shipment. Applications for a permit to import amphibians, reptiles, birds or mammals shall be received not less than ten days prior to the importation date. Applications for a liberation permit shall be received not less than 15 days prior to the liberation date.

(13) Information and Requirements. All permit applications shall contain the following information, where applicable.

(a) the applicant's name, address and telephone number where he can be reached between the hours of 9:00 A.M. and 5:00 P.M.;

(b) the applicant's date of birth;

(c) in the event the applicant is a corporation, firm, partnership, institution or agency, either public or private, the name, address, and telephone number of the president, director, head or principal officer;

(d) for an importation permit, the street address and mailing address of the facility or business from which fish and wildlife are to be imported, if such are propagated.

(e) for an importation permit, the street and mailing address of the facility, business, or destination to which fish and wildlife are to be imported;

(f) for an importation permit, the geographical location from which fish and wildlife are taken, if lawfully taken from the wild, the date(-s) of the importation, and a signed statement from the applicant that such taking and export is lawful under the laws of the state, province, or country from which taken;

(g) for a liberation permit, the geographical area, water body, or site at which fish and wildlife are to be liberated, and the date(-s) of the liberation;

(h) the species or parts thereof of fish and wildlife which are to be imported or liberated;

(i) the numbers or quantity of fish and wildlife which are to be imported or liberated;

(j) the date of the application;

(k) the applicant's signature executed under the pains and penalties of perjury;

(l) a health certificate(-s) when required by the director; and

(m) such other information as the director may require.

(14) Fees. All applications and renewals shall be accompanied by the appropriate fee indicated on the application in the form of a check or money order payable to the Division of Fisheries and Wildlife. Cash may be used only when the application is made in person.

(15) Exception. Payment of fees shall not be required of any federal, state, or municipal agency or official, nor of any person under contract to the Division or otherwise involved in projects conducted or directly supervised by the Division.

(16) Abandoned Applications. Upon receipt of an incomplete application, an improperly executed application, or an insufficient fee, the applicant shall be notified of the deficiency. If the applicant fails to supply the requested information, pay the required fee or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned and shall be returned to the applicant.

(17) Denials. Applications for a permit provided for in 321 CMR 2.15 shall, unless otherwise provided, be denied when:

(a) the application is for an importation permit to subsequently propagate, maintain, cultivate, possess, or deal in fish, amphibians, reptiles, birds, or mammals pursuant to any provision of M.G.L. c. 131, and the applicant lacks the required license or permit under M.G.L. c. 131 or 321 CMR to do so;

(b) the applicant has within one year prior to the date preceding the application been criminally convicted of a violation of any provision of M.G.L. c. 131 or c. 131A, any provision of 321 CMR, or any federal statute or regulation which is related to the activity for which the permit is sought;

(c) the applicant has failed to disclose or submit material information or has made false statements as to any fact in connection with the application;

(d) the applicant has failed to submit the required health certificate, or has submitted an incomplete, unsatisfactory, or altered certificate, or has proposed to import fish or wildlife from a source not approved by the director;

(e) the director has determined pursuant to 321 CMR 2.15(9~~10~~) that the importation or liberation, as the case may be, is detrimental to the fish and wildlife resources of Massachusetts, or their habitats, and is not in the public interest.

(18) Inspections. Fish, amphibians, reptiles, birds, and mammals imported pursuant to M.G.L. c. 131, §§ 19 and 19A, may be subject to inspection by the director, his agents, or an Environmental Police Officer at any reasonable time. Such inspections may include the taking of fish, fish eggs, or biological samples for examination and testing.

(19) Conditions. The director may, at any time, in writing, establish conditions or restrictions to a permit issued pursuant to 321 CMR 2.15(9) if, in his opinion, the conditions or restrictions are necessary for the preservation and protection of the health, welfare or safety of humans or of fish and wildlife or their habitats, or to establish criteria in furtherance of the purposes of the permit.

(20) Agreement. All permits issued pursuant to 321 CMR 2.15(9) shall be signed by the permittee and such signature shall constitute:

(a) an agreement by the permittee to fully comply with all relevant provisions of law including but not limited to M.G.L. c. 131, 321 CMR, and all applicable conditions and restrictions of the permit;

(b) an agreement by the permittee to allow inspections, testing, or biological sampling at reasonable times of fish and wildlife imported or proposed for liberation, by the director, his agents, or an Environmental Police Officer; and

(c) liability agreement.

(21) Records and Reports. Permittees shall keep and maintain for no less than two years accurate records of fish and wildlife imported and liberated. Said records shall be made available to the director, his agents, or an Environmental Police Officer upon request. Records shall contain the source, destination, number or quantity, species or kind, and date of the activity, and such other information as the director may require. The director may require statements or reports as a condition for issuance of subsequent importation or liberation permits to the applicant.

(22) Seizure of Diseased Fish and Wildlife. Any fish, viable eggs thereof, amphibians, reptiles, birds, or mammals, **and including any parts thereof**, which are brought into Massachusetts in violation of 321 CMR 2.15, or which are so brought in under authority of a permit issued thereunder and are subsequently found to be diseased, may be confiscated by any officer empowered to enforce M.G.L. c. 131 and shall be forfeited to the commonwealth and disposed of by the director of the ~~Division~~ **Office** of Law Enforcement to the best interests of the Commonwealth.

Regulatory Authority: M.G.L. c. 131, §§ **4**, 19 and 19A.